IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 12462 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PANKAJ K DHARIYA
Versus
DIST FOREST OFFICER & ANOTHER

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Appearance :
MR TR MISHRA for Petitioner.
MR IM PANDYA, ASST. GOVERNMENT PLEADER for Respondents.

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 30/07/2007

ORAL JUDGMENT

The petitioner has come to this Court with a submission that despite the policy of the State

Government to select daily wagers as Beat Guards, the petitioner is not being considered, nor is he made a permanent Beat Guard. Placing reliance upon certain orders of the State Government, the petitioner has come to this Court with a submission that he worked with the Government at an earlier occasion, he was removed from services, the matter went to the Labour Court, the Labour Court decided in favour of the petitioner, the award was challenged and after dismissal of the petition, and at the instance of the State Government, the petitioner was reinstated in services in the year 1998. It is also the submission of the petitioner that baring the age criteria, the petitioner fulfills all other requirements, but as the respondents have abandoned the age criteria and are appointing and regularizing persons even after such persons have crossed the age of 30 years, the petitioner could not be extended a step-motherly treatment. It is also the case of the petitioner that he was appointed in the year 1976 and by now, he has completed 31 years of service as a daily wager.

Shri I.M. Pandya, learned counsel for the respondents on the other hand submitted that the petitioner could not be considered for regular appointment firstly because he is not eligible and secondly because he has crossed the age limit of 30 years.

On being asked that apart from the age criteria, what are the other eligibility criteria, Mr. I.M. Pandya submitted that except a bare, bald statement in the counter affidavit, the State has not provided any reason. On being asked that if the petitioner was giving names

and details of the persons who are regularized and appointed as Beat Guards even after they have crossed the age of 30 years, what was the say of the State Government, Mr. Pandya read from the counter affidavit and additional counter affidavit but could not show even a single line in the affidavit denying the allegations made by the petitioner.

Taking into consideration that the State Government does not say that what could be the other eligibility criteria, on this ground, the petitioner's appointment could not be denied. So far as the age criteria is concerned, the respondents cannot be allowed to say that the petitioner had crossed the age of 30 years and therefore his services cannot be regularized because it is to be noted that the State Government does not deny the allegations made by the petitioner that certain persons were appointed as Beat Guards and their services were regularized even after they had crossed the age of 30 years.

In the absence of a proper defence and a proper denial by the respondent-State, I have no hesitation in allowing the petition. The petition is accordingly allowed. It is held that the petitioner would be entitled to be appointed as a Beat Guard and his services are required to be regularized from the date when his junior came to be regularized as Beat Guard. He would also be entitled to all consequential benefits including wages, backwages, arrears of wages, continuity of service and seniority.

Rule made absolute accordingly. No costs.

[R.S.GARG, J.]

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